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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,184	12/27/2005	Shameem Bhatia	C4272(C)	8055

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EXAMINER

NGUYEN, TRI V

ART UNIT PAPER NUMBER

1751

DATE MAILED: 05/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/537,184	Applicant(s) BHATIA ET AL.	
	Examiner Tri V. Nguyen	Art Unit 1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the Search Report is not considered to be an information disclosure statement (IDS) complying with 37 CFR 1.98. 37 CFR 1.98(a)(2) requires a legible copy of: (1) each foreign patent; (2) each publication or that portion which caused it to be listed; (3) for each cited pending U.S. application, the application specification including claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion, unless the cited pending U.S. application is stored in the Image File Wrapper (IFW) system; and (4) all other information, or that portion which caused it to be listed. In addition, each IDS must include a list of all patents, publications, applications, or other information submitted for consideration by the Office (see 37 CFR 1.98(a)(1) and (b)), and MPEP § 609.04(a), subsection I. states, "the list ... must be submitted on a separate paper." Therefore, the references cited in the Search Report have not been considered. Applicant is advised that the date of submission of any item of information or any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the IDS, including all "statement" requirements of 37 CFR 1.97(e). See MPEP § 609.05(a).

Specification-Abstract

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

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The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because the abstract recites three occurrences of "said" in lines 2-4. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2-11 and 15-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites "as hereinbefore defined" in line 3. It is suggested that the phrase be deleted.

Claim 8 recites the limitation "the trichlorophenol" (see lines 3-4), "the N-hydroxysuccimide" (see line 5), "the isoeuginol" (see line 6) and "the menthol" (see line 7). There is insufficient antecedent basis for this limitation with respect to claim 4. It is suggested that each occurrence of the term "the" as stated above be deleted.

Claims 3-7, 9-11 and 15-18 are dependent on Claim 2 and inherit the same deficiency.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-3, 9-13 and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Mooney (US 5,965,517).

Mooney discloses a method of fabric treatment comprising the steps of applying a cross-linking agent comprising a capped polycarboxylic acid (col 2, lines 15-33) that reduce creasing of the fabric by forming cross-linking via ester bonding (col 3, lines 1-3). Furthermore, Mooney teaches the inclusion of a surfactant in the spray formulation (col 6, lines 26-27) and curing the fabric via ironing or tumble-drying in the temperature range of 140 –195 °C (col 6, lines 6-14 and col 8, Table 3).

Accordingly, the teachings of Mooney anticipate the material limitations of the instant claims.

8. Claims 1-2, 9-13 and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Watanabe et al. (US 4,780,101).

Watanabe et al. discloses a method of treating cellulose fiber-containing textile product the steps of applying a cross-linking agent comprising a blocked isocyanate such as hexamethylene diisocyanate (HDI) blocked by phenol (col. 2, lines 64-67 and col 3, lines 16-27) followed by heat-treating the fabric at an elevated temperature - 110 °C (col 4, lines 42) to cleave the blocking agent. Furthermore, Watanabe et al. discloses the inclusion of polyethylenelene in the composition (col 4, lines 50-65).

Accordingly, the teachings of Watanabe et al. anticipate the material limitations of the instant claims.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mooney as applied to the claims above, and further in view of Della Valle et al. (US 5,676,964).

Mooney teaches the features as described in Claim 3. In addition, Mooney discloses the inclusion of BTCA as the polycarboxylic acid (col 2, lines 30-33), an alcohol (col 6, lines 31-34) and a perfume carrier in the composition (col 6, lines 52-60) but does not explicitly disclose that the alcohol is used as a blocking and odiferous agent. In an analogous art of textile treatment, Della Valle et al. teaches that it is known to use of menthol as a substituent (col 9, lines 67) to provide an ancillary perfume component. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Mooney, with the inclusion of menthol as a substituent as taught by Della Valle et al. to provide the ancillary action of the perfume via the capping substituent.

11. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mooney as applied to the claims above.

Mooney discloses the method according to claim 1 but does not explicitly disclose the cross-linking agent having a molecular weight below 1500 Dalton.

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However, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the compositions as taught by Mooney would encompass the claimed ingredients and properties because Mooney teaches the cross-linking agent comprising "1 to 4 carboxyl groups" and " long chain -C₁₂-C₁₈- alkyl, alkenyl or acyl groups". The Examiner further notes that the USPTO is not equipped to perform laboratory testings and experimental benchworks to measure the properties of the resulting composition. The burden is on the applicant to prove otherwise.

12. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe et al. as applied to the claims above, and further in view of Mooney.

Watanabe et al. discloses the composition according to claim 15 but does not explicitly disclose the composition packaged in the form of a spray. In an analogous art of textile treatment, Mooney teaches that it is known to use of a spray packaging to dispense a fabric treatment composition (col. 6, lines 26-27). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the packaging composition as taught by Watanabe et al. with the spray packaging as taught by Della Valle et al. to provide a more diverse and efficient application of the treatment composition to the fabric.

Allowable Subject Matter

13. Claim 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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14. The following is a statement of reasons for the indication of allowable subject matter: the claimed limitation of the polyester comprising one or more of trichlorophenol diester of succinic acid, trichlorophenol diester of BTCA, N-hydroxysuccinimide diester of succinic acid, isoeugenol diester of succinic acid, and menthol diester of succinic acid has not been met by the searched prior arts.

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri V. Nguyen whose telephone number is (571) 272-6965. The examiner can normally be reached on M-F 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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NVT
05/09/06

Lorna M. Douyon
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PRIMARY EXAMINER